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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Reports submitted by States parties under article VII of the Convention

Addendum

MEXICO*

[10 July 1991]

THIRD PERIODIC REPORT OF MEXICO ON THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

1. The institutionalization of discriminatory practices based on race is unknown in Mexico. Such policies are contrary to the country's history, legal system and culture.

2. The first and second reports which the Government of Mexico submitted to the Group of Three in 1982 and 1987, respectively, described in detail the main legislative and administrative measures that make any manifestation of practices of apartheid impossible in Mexico (see annex No. 1). The description shows how the principle of equality is provided for throughout the Mexican legal system and draws attention to the multiethnic and multiracial nature of the Mexican population.

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* The initial and second periodic reports submitted by the Government of Mexico (E/CN.4/1505/Add.3 and E/CN.4/1987/26/Add.143) were considered by the Group of Three at its 1982 and 1987 sessions.

3. Any activity which has the effect of denying a racial group the rights provided for in the 1917 Constitution and the purpose of dividing the population along racial lines would be illegal and therefore punishable under article 149 bis of the Penal Code, which states that: "Anyone who, by any means, commits offences against the lives of members of one or more national, ethnic, racial or religious groups with the aim of exterminating them totally or partially or obliges them to undergo mass sterilization with the aim of preventing the group from producing offspring shall be guilty of the crime of genocide". The protection and enjoyment of these rights are also guaranteed by means of the amparo proceedings provided for in articles 103 and 107 of the Constitution. Such legal proceedings are applicable in cases where individual guarantees have been violated, thus enabling the person concerned to obtain compensation for the harm caused.

4. In order to make amparo proceedings broader in scope and a more effective means of protecting indigenous persons, peasants and workers, an additional complaint may be filed by the federal courts in agrarian and labour disputes. The judicial authorities are thus entitled to adduce further legal arguments in order to defend such groups.

5. Accordingly, the attention of the Group of Three is drawn to the following legislative measures that have been amended or adopted for the purpose of strengthening the legal system that has existed since the Government of Mexico submitted its second periodic report.

6. With a view to making progress in achieving the ideal of impartially administered justice, several amendments to the Constitution were adopted in 1987, including that relating to article 17, which adds unlimited jurisdiction and impartiality to the requirements of promptness and free services already provided for, thus making for the better and more effective administration of justice.

7. The Government of Mexico is making constant efforts to provide special protection for the country's indigenous populations. For the purpose of strengthening the protection of rights in all legal proceedings and, in particular in meeting the legal requirements that must be satisfied during the custody, judicial confession and trial of an accused person in the competent court, on 20 December 1990, the Congress of the Union adopted the presidential proposal for the amendment of various provisions of the Federal Code of Penal Procedure and the Code of Penal Procedure for the Federal District. The amendments entered into force in 1991 and contain specific provisions for cases in which indigenous persons are involved.

8. Article 28 provides that "When the accused, the victim or the complainant, the witnesses or the experts do not speak or understand Spanish well enough, one or more interpreters, who shall faithfully interpret the questions and answers to be transmitted, shall be appointed either on application by a party or automatically. When any of the parties so requests, the statement may be written in the language of the person making it, without this preventing the interpreter from having to provide interpretation". This provision is repeated in article 124 (2) and article 128 (3), under which an interpreter is appointed when the detainee is an indigenous person.

9. The main purpose of these changes and additions is to offer better legal solutions that will ensure fairer treatment for members of ethnic groups who do not know or master Spanish well enough. This explains the legislative and human need to adopt an equitable position in keeping with the fundamental legal rules in force in a State subject to the rule of law.

10. The amendments adopted place special emphasis on the strengthening of the obligation of the court to collect as much evidence as possible to be able to understand and assess the personality and circumstances of persons who are involved in the commission of an offence and who belong to particular ethnic groups (see copy of the relevant text, annex 2).

11. With regard to article II (c) of the Convention, chapter 1, section 2, of the Federal Code of Electoral Agencies and Procedures, adopted in 1990, provides that suffrage is universal, free, secret, direct, personal and non-transferable. Any citizen, without distinction as to religion, race or ideology, is thus entitled to elect his leaders, provided that he is listed in the Federal Voters' Register and has a voter's card.

12. For the registration of a political party in Mexico, article 27, paragraph 1, of the Code provides that the statutes will determine "the name of the party and the emblem and colour or colours which characterize it and distinguish it from other political parties. The name and emblem shall not contain any religious or racial references".

13. At the international level, Mexico is a party to the International Conventions on the Suppression and Punishment of the Crime of Apartheid and the Elimination of All Forms of Racial Discrimination. In addition to ratifying the International Convention on the Elimination of All Forms of Racial Discrimination in 1975 and the International Convention on the Suppression and Punishment of the Crime of Apartheid in 1984, it ratified the International Convention against Apartheid in Sports in 1987. Since 2 March 1989, moreover, it has been a member of the Commission against Apartheid in Sports set up in accordance with article 11, paragraph 1, of that Convention.

14. With regard to the implementation of article VI of the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Government of Mexico has, in accordance with its traditional foreign policy principles, criticized the apartheid policy of the Government of South Africa in various international forums. It also supports the United Nations General Assembly and Security Council resolutions which condemn the policies and practices of the racist regime and has consequently adopted various measures designed to bring pressure to bear on the South African authorities to eliminate the segregationist system.

15. Mexico has contributed to the activities of the two Decades for Action to Combat Racism and Racial Discrimination and, in particular, played an active role in the activities organized in connection with the Second Decade. It also supports the resolutions adopted by the General Assembly and the Commission on Human Rights to promote the implementation of the Programme of Action.

16. At the special session of the General Assembly on apartheid held in December 1989, the Government of Mexico supported the Declaration on Apartheid and its Destructive Consequences in Southern Africa. It drew attention to the need to put an end once and for all to the system of racial segregation and expressed the view that the steps needed to eliminate apartheid would be taken only through the imposition of comprehensive and mandatory sanctions.

17. In accordance with paragraph 7 (a) of General Assembly resolution 2671 F (XXV), Mexico does not maintain diplomatic or consular relations with South Africa and all cultural, educational, sporting and other exchanges have been suspended. The Government of Mexico has also endeavoured to comply fully with paragraph 7 (b) urging all States to terminate all military, economic, technical and other cooperation with South Africa. In accordance with paragraph 8, Mexico closed its consulate in South Africa in 1974.

18. Guarantees have been established so that no financial links are maintained between the two countries through banks. As a result of the adoption of the presidential proposal for a constitutional amendment relating to Government participation in the Banking and Loan Service, the Mexican Government will guarantee that the banking sector continues its policy of not maintaining financial relations with South Africa.

19. All types of trade, including trade in goods from or to South Africa and transiting through third countries, have also been prohibited. Thus, on 30 October 1987, the Government of Mexico adopted an agreement prohibiting imports and exports of goods from and to South Africa, even if such goods transit through third countries, but originate in or are intended for South Africa (see annex No. 3).

20. In accordance with the various resolutions adopted by the General Assembly, the Government of Mexico supports the oil embargo against South Africa. To this end, all crude oil purchase-sales contracts concluded by Petróleos Mexicanos (PEMEX) provide that Mexican crude will be sold only to final users, thus preventing any resale or barter of Mexican oil. PEMEX regularly informs its customers that any operation of this kind excludes South Africa and that failure to comply with this obligation would lead to the termination of the contract. The ultimate purpose of the agreement is also guaranteed by monitoring by inspectors in ports where purchasing companies unload goods.

21. Mexico is a member of the Group of Experts on the Supply of Oil and Oil Products to South Africa, set up by the Special Committee against Apartheid in accordance with General Assembly resolution 37/69 J. The Group is composed of representatives of the countries which have imposed an oil embargo on South Africa and was established to study appropriate ways of increasing the effectiveness of such provisions, which Mexico has complied with fully. It should also be noted that isolated cases of ships flying the Mexican flag which apparently took part in supplying oil and were registered by the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa, established in accordance with General Assembly resolution 41/35 F, have been cleared up satisfactorily by the Government of Mexico.

22. With regard to the isolated cases of Mexican sportsmen who have violated the sports boycott which the Government of Mexico maintains against South Africa, the necessary steps have been taken through the National Sports Commission to have them undertake in writing not to take part again in events organized and/or held in South Africa. Some of these sportsmen have sent the United Nations Centre against Apartheid a communication stating that they agree to abide by this undertaking.

23. In February 1989, the Federal District Boxing Commission adopted measures to prohibit Mexican boxers from travelling to South Africa and to prohibit South African boxers in the Federal District. This policy has been adopted by all boxing commissions in the Mexican Republic. The national boxing commissions have also supported South Africa's expulsion from the World Boxing Council (a non-governmental organization with headquarters in Mexico City), as well as the measures adopted by the Council prohibiting South African boxers from fighting for world titles.

24. As far as migration is concerned, Mexico has given effect to paragraph 8 (e) of resolution 3151 G (XXVIII), in which the General Assembly called upon States which have not yet done so to deny facilities for South African immigration offices and to prohibit advertisements for immigration to South Africa. The Government of Mexico has consistently refused to grant entry visas to South African nationals, except in humanitarian cases.

25. With regard to the arms embargo, Mexico has complied fully with the provisions of Security Council resolution 418 (1977) and stated its belief that there must be a complete embargo on arms and related matériel.

26. In conclusion, the Government of Mexico has adopted a set of measures to guarantee the full implementation of the provisions of the Convention, which is regarded as the "supreme law of the land" in accordance with article 133 of the Constitution. The Convention is thus part of the directly applicable law and may be the basis and grounds for any legal action.

List of annexes*

1. Amendments to the Federal Code of Penal Procedure and the Code of Penal Procedure for the Federal District.

2. Federal Code of Electoral Agencies and Procedures.

3. Agreement prohibiting imports and exports of goods from and to South Africa.

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* The annexes, in Spanish, are available for consultation in the offices of the Centre for Human Rights.